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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,519	03/19/2004	Raymond Delfing	WSTE-0010	7499
23377	7590	02/18/2005		
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			EXAMINER CHRISTMAN, KATHLEEN M	
			ART UNIT 3713	PAPER NUMBER

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/804,519	DELFING, RAYMOND	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kathleen M Christman	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413).                    |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05/17/04</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 12, 14, 16, 18, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kouba et al (US 6,325,631). Kouba et al teaches a method and computer processor with executable code invoking the method of: receiving registration data directed to one or more participants desiring employment and access to one or more site locations and recording the data to a central storage media (col. 4: 41-51); determining a relevant training topic (col. 4: 66-67); providing training directed to the relevant topic (col. 5: 276-29); providing a qualifying interface configured to receive participant input relating to one or more queries directed to the relevant topic (col. 3: 59-61); receiving a participant input relating to the one or more queries and recording the participant input to the central storage device (col. 5: 39-41); transmitting results data evidencing a relative level of participant success to the one or more site locations (col. 6: 30-45); and providing an identification of participant qualification (col. 5: 50-55), as **claims 1 and 19**. The generation of a badge based upon a review of the registration and the results data recorded to the central storage media for the participant (**claims 3, 16 and 21**) is shown in col. 6: 20-29.

Kouba et al further teaches a system including: a centralized data store configured to receive and transmit general, registration, training, and qualifying data directed to one or more individual (the "worker table of the database, col. 6: 30-45); a server software designed to enforce rules relating to the receipt, storage, and transmission of the general, registration, training and qualifying data (col. 3: 9-22); a plurality of training units configured to transmit the general, registration, training and qualifying

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data, wherein the data is generated and transmitted by the training units after the training units communicate training transmitted from the centralized data store the training being directed to an employment activity at the one more site locations, at least one of the training units being remotely located from the centralized data store (the testing sites); a plurality of network clients configured to receive the general, registration, training, and qualifying data from the centralized data store, the clients being operable upon direction of one ore more site facilitators (the user computers); a first set of network connections providing a communication between the centralized data store and the plurality of training units; and a second set of network connections providing communication between the centralized data store and the plurality of network clients (see Figure 1), as in **claim 12**. The queries and training materials being directed to the understanding and compliance of safety rules (**claim 14**) is shown in col. 4: 28-30. The use of an internet connection (**claim 18**) is shown in col. 3: 20-21,

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 2, 4-6, 9-11, 13, 15, 20, 22-24, 27, 28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouba et al (US 6,325,361) in view of Osborne et al (US 2002/0106622 A1).

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Kouba et al fails to specifically teach: if a predetermined criteria is not satisfied providing supplemental or repeated training directed to the relevant topic, including providing one or more supplemental or repeated queries directed to the relevant topic (**claims 2 and 20**); analyzing the indication serving to enable the participant to enter the one or more site locations, the registration data and the results data recorded to the central storage medium and transmitting applicable data relevant to the analysis to the one ore site locations (**claims 4-6 and 22-24**); the safety training being related to sanitation and the sites being landfills (**claims 9, 10, 13, 27, and 28**); that the training topic is related to a specific job skill or task (**claims 11, 15, and 30**); and storing an indication of the number of disagreement response the participant provided prior to providing an agreement response (**claim 31**).

Osborne et al teaches a networked based system for teach users about site or job specific skills and tasks at one or more sites (paragraph 32). Review material is shown in paragraphs 50-52. These section also teach recording the users number of attempts at passing the course. Transmission of all the data to the various worksites is shown in at least paragraphs 60-62. It would have been obvious to one of ordinary skill in the art to combine the features of the Osborne et al system with those of the Kouba et al system so as to allow the user to review missed material, allow diverse disbursement of the database material and provide specialized job training to users, as suggested by Osborne et al (paragraphs 14-17).

Osborne et al additionally fails to teach the safety training being related to sanitation and the sites being landfills. However, both the Osborne et al and Kouba et al systems are directed to training in various industries for a variety of tasks and certifications. The modification of the content of the training programs to include information concerning sanitation and landfills does not alter the structure of the system or method, nor does it produce an unexpected result, and the feature is related only to the intended use of the invention. Given this, modifying the system to teach a user about the safety information concerning landfills and sanitation would be an obvious matter of design choice.

3. Claims 7, 8, 17, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kouba et al (US 6325631) in view of Callahan (US 6416328).

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Kouba et al fails to specifically teach: receiving upon participant access to the one or more site locations, and recording to the central storage media, data selected from the group consisting of a site location identifier, a time of entry, a time of exit, and tasks performed (**claims 7, 17, and 25**) and providing indication of participant qualification for employment at and access to the one or more site locations occurs with each participant request for entry at the one or more site locations (**claims 8 and 26**). Callahan teaches an educational system which tracks the access of a user to a site, records the tasks completed, and determines on each attempt to perform a task (or enter a site) whether the user is certified to perform the task, see col. 4: 13 – col. 5: 5 and col. 6: 3-23. It would have been obvious to one of ordinary skill in the art to implement the employee monitoring and tracking system of the Callahan system with the Kouba et al training system so as to provide each site with the ability to ensure proper training and certifications prior to employees performing specific tasks, as suggested by Callahan (col. 1: 45-61).

4. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kouba et al (US 6325631) and Osborne et al (US 2002/0106622) as applied to claim 28 above, and further in view of Braunberger et al (US 2003/0077559). In addition to the above Osborne teaches preventing the user from continuing a training session if the user meets a "fail" criteria, such as missing too many questions, in paragraph 56. However, neither Kouba et al nor Osborne et al teach that such a condition will occur after three consecutive unsuccessful attempts to answer a question. Braunberger teaches such a feature in paragraph 45. It would have been obvious to one of ordinary skill in the art to include the repeat limits of the Braunberger system with the Kouba et al and Osborne et al systems so as to prevent a student from taking an unlimited number of guesses, as suggested by Braunberger.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


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- a. Samuels et al (US 201/0026914) teaches a system for internally qualifying a user, including repetitive testing
- b. Osborne et al (US 6589055) patent granted on the above publication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kathleen M. Christman  
February 17, 2005

  
XUAN M. THAI  
PRIMARY EXAMINER  
AN3713